

SENATE RECORD VOTE ANALYSIS

106th Congress
2nd Session

Vote No. 217

July 19, 2000, 5:30 p.m.
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AGRICULTURE APPROPRIATIONS/Reimportation of Drugs

SUBJECT: Agriculture, Rural Development, and Related Agencies Appropriations Bill for fiscal year 2001 . . . H.R. 4461. Jeffords amendment No. 3925, as amended.

ACTION: AMENDMENT AGREED TO, 74-21

SYNOPSIS: As amended, H.R. 4461, the Agriculture, Rural Development, and Related Agencies Appropriations Bill for fiscal year 2001, will provide \$75.347 billion in new budget authority (of which \$14.85 billion will be discretionary budget authority). Loan authorizations will total \$11.387 billion. The bill will also provide supplemental appropriations of \$2.158 billion in fiscal year (FY) 2000 funds, of which \$1.1 billion will be emergency funding. (When the Senate began consideration of the bill it substituted the text of S. 2536, the Senate-reported version of the bill, with a modification, and agreed by unanimous consent to treat it as original text for the purpose of further amendment).

The Jeffords amendment, as amended, would require the promulgation of regulations to permit licensed pharmacists and licensed wholesalers to import prescription drugs made in Food and Drug Administration (FDA)-approved facilities. As amended (see vote No. 216), the amendment would only become effective if the Secretary of Health and Human Services certified that implementing it would pose no risk to the public's health and safety and would result in a significant reduction in the cost of covered products to American consumers.

Those favoring the amendment contended:

Drug companies are gouging American consumers by charging exorbitant prices. These huge prices are especially harmful to senior citizens, who are more likely than other Americans to be on low, fixed incomes and who are less likely than other Americans to have insurance coverage for prescription drugs. Many elderly Americans are regularly forced to make the cruel choice of either buying food or buying medicine. A common, sad practice for many of them is to cut their required dosages of needed medicines in two, or to pick and choose which medicines they will even take. They need those medicines to stay healthy and often even to stay

(See other side)

YEAS (74)				NAYS (21)		NOT VOTING (4)	
Republicans (34 or 64%)		Democrats (40 or 95%)		Republicans (19 or 36%)	Democrats (2 or 5%)	Republicans (1)	Democrats (3)
Abraham	Jeffords	Akaka	Kerrey	Bennett	Bayh	Lott ²	Biden ²
Allard	Kyl	Baucus	Kerry	Bond	Breaux		Torricelli ²
Ashcroft	Lugar	Bingaman	Kohl	Bunning			Hollings ⁴
Brownback	McCain	Boxer	Landrieu	Cochran			
Burns	Murkowski	Bryan	Lautenberg	Enzi			
Campbell	Roberts	Byrd	Leahy	Frist			
Chafee	Roth	Cleland	Levin	Gramm			
Collins	Sessions	Conrad	Lieberman	Hagel			
Craig	Shelby	Daschle	Lincoln	Hatch			
Crapo	Smith, Bob	Dodd	Mikulski	Helms			
DeWine	Smith, Gordon	Dorgan	Moynihan	Hutchinson			
Domenici	Snowe	Durbin	Murray	Hutchison			
Fitzgerald	Specter	Edwards	Reed	Inhofe			
Gorton	Stevens	Feingold	Reid	Mack			
Grams	Thomas	Feinstein	Robb	McConnell			
Grassley	Thurmond	Graham	Rockefeller	Nickles			
Gregg	Warner	Harkin	Sarbanes	Santorum			
		Inouye	Schumer	Thompson			
		Johnson	Wellstone	Voinovich			
		Kennedy	Wyden				

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

alive. It is cruel and wrong to deny treatment based on an inability to pay.

The drug companies are making enormous profits. As Fortune Magazine recently put it, they are having a "Viagra kind of year." Their profits, as measured both as a percentage of their assets (16.5 percent) and as a percentage of shareholder equity (36 percent) far outstrip the profits of other Fortune 500 industries (3.8 percent and 15 percent, respectively). Why not? They are drug dealers--they have captive populations that will pay extortionist prices for drugs they need to stay alive, and for drugs they need for relief from crippling, painful illnesses. If drug companies are allowed to charge high prices, they will charge high prices, because they can get away with high prices, and they are commercial companies that exist to make profits.

Other countries, including Canada and Mexico, do not allow drug companies to charge extortionist prices. They impose price caps. The American companies that produce and sell drugs for unfair prices in this country ship some of the drugs they make in this country, with exactly the same safeguards they use for the drugs sold in this country, half way around the world for sale. Do they sell those drugs for more, because of the extra expenses involved? No, they sell them for as much as 50 percent less. They do not sell them for less out of altruism; they still make profits. They just do not make obscene profits, because the countries in which they sell them impose reasonable price caps. Americans along the Canadian and Mexican borders understand this fact. They regularly cross the borders to have their prescriptions filled. No American, as a matter of justice, should be forced to leave the country to be charged a fair price for medical treatment.

The Jeffords amendment would solve the problem of extortionist drug prices in this country in a very straightforward manner--it would simply allow licensed pharmacists and wholesalers to purchase FDA-approved drugs from foreign sources for resale in America. Only drugs approved by the FDA could be reimported. Basically what would happen is drugs would be produced in the United States as they are now, with all of the current safeguards that are in place, they would be shipped to a country like Canada, and then a pharmacist would buy them from that Canadian purchaser for resale in the United States. In fact, we think that it would not be long before manufacturers would concede that they had lost their captive United States' market, and would begin to negotiate directly with American wholesalers and pharmacists to provide drugs at fair prices.

Some Senators have suggested that this amendment would impose price controls that would lead to less research. We doubt it: more research is done in Europe, which has price controls, than America; a large percentage of American research is paid for by the Federal Government; drug companies overstate how much they spend on research compared to other expenses, such as advertising; and drug companies make profits that are obscenely beyond any possible incentive they may need to conduct research. Other Senators have suggested that this amendment would lead to unsafe drugs being sold in America. This concern is more serious. Americans have been harmed in the past by foreign medicine that was not produced to the exacting safety standards demanded in this country. The Jeffords amendment, though, would solve this problem completely. It would only allow the reimportation of drugs by licensed pharmacists and licensed wholesalers, and they could only reimport drugs that had been produced according to the FDA's exacting safety standards. We frankly went farther in ensuring safety in this amendment than we thought was necessary--we think we should have added that individuals could purchase reimported FDA-approved drugs.

Drug companies are going to charge whatever they can for their products. Many countries impose price controls to stop those companies from charging too much. The Jeffords amendment would effectively stop companies from overcharging for medicine in this country by allowing the reimportation of low-priced, FDA-approved drugs. We strongly urge our colleagues to support this amendment.

Those opposing the amendment contended:

The Jeffords amendment addresses a very real problem--other countries' price controls on prescription drugs result in Americans having to subsidize those low foreign prices. Pharmaceutical companies raise prices in the United States in order to raise the amount of income they receive to equal the average amount they would have made from their world-wide sales absent any foreign price controls. Making matters worse, the Federal Government heavily invests in pharmaceutical research, and was very much a partner in the development of many of the new drugs being sold. In the United States, many people, particularly senior citizens who are least likely to have insurance that pays for prescription drugs, cannot afford to purchase the drugs that are prescribed for them, and that they need to stay healthy or even to stay alive. Thus, the situation we have is that the American taxpayers are subsidizing the development of drugs that they must then purchase at inflated prices in order to subsidize the sale of those drugs in foreign countries with price controls.

The Jeffords amendment would address this problem by allowing licensed pharmacists and drug wholesalers to purchase those drugs in the price-control countries for resale here. This solution would create two huge problems of its own. First, it would essentially impose the lowest price controls in the world on drugs sold in the United States, because purchasers would just look for the lowest-cost countries to buy drugs for reimportation. Price controls always have unintended consequences. Black markets develop, the supplies of the controlled products decline, and/or the quality of the products decline. Second, it would raise numerous safety concerns. We know that our colleagues have tried to address those concerns by adding several safeguards to their amendment, but we fear that those safeguards are inadequate.

Medical science is making huge strides in treating illnesses with drugs. Many illnesses that were untreatable or were only treatable by surgery just a few years ago can now be cured or controlled with new medicines. Most of the research into those new

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medicines is funded by private companies, especially in the United States. One American company alone, Pfizer, has 12,000 researchers and spends \$4.7 billion per year developing new drugs, which is more than the entire budget of the National Science Foundation. When such companies have successful years and make high profits they do not rob their companies of capital; they plow the money back into more research. The scientists working at these companies are not the archetypal capitalist villains of our colleagues' imaginations--they are committed, dedicated people who want to relieve human suffering and improve the world. Demonizing pharmaceutical companies may be great fun, but it leads to a distorted understanding of the problem and to faulty solutions.

Allowing the reimportation of drugs from countries with price controls would be the same as adopting the lowest price controls of any country in the world, because pharmacists would look for the countries that had the lowest prices from which to buy. Americans would get lower prices because they would no longer be subsidizing the lower prices of other countries. In fact, any country that did not have the lowest price levels would effectively be subsidizing American sales. Drug companies would have no one left on whom to impose high prices. All prices would be controlled, and constant downward pressure would be imposed as countries competed to drop their permitted prices. If companies knew that they could no longer charge enough to recoup the costs of research for new treatments and cures they would just end their research efforts. It takes an average of 15 years and \$500,000 to bring a new drug to the market; during that time, a company also spends huge sums and years of effort in developing drugs that turn out to be too dangerous or ineffective to bring to market. Producing a drug is relatively cheap, though. With price controls, therefore, we would end most private research. Drug prices would be low, but very few new medical advances would be made.

Another problem with price controls is that they always lead to efforts to make more profit at the permitted prices, typically by cutting corners to reduce production costs. The result is inferior products. Congress enacted the Prescription Drug Act in 1988 in order to stop the importation of improperly stored, handled, and transported drugs. Foreign companies were cutting corners to maximize profits even when there were high profits to be had, and Americans were being hurt by unsafe medicine. That Act also addressed the problem of foreign companies cutting costs by selling counterfeit products that were too weak, contained harmful contaminants, or that contained no medicine or even harmful drugs. Passage of the Jeffords amendment would undermine the reforms of that Act. The FDA does not have the resources to monitor shipments coming in from Canada, Mexico, or other foreign nations. Even if the shipments were of drugs that were made in FDA-approved facilities in the United States and then shipped overseas, and even if no effort were made to change the paperwork proving their origin, and even if no adulteration of the product occurred, how would the FDA have any way of knowing whether the drugs had been properly transported and stored?

If our colleagues were not so focused on the supposed evils of drug companies we believe they would be able to see that the solution to the problem of foreign price controls is to pressure foreign countries into getting rid of their price controls. Further, if they had not made up their minds that the solution was to punish drug companies, they might have noticed that for most Americans drug prices are a bargain. The price of prescription drugs in countries with price controls is typically around 60 percent of the retail price in America. Do most Americans pay retail? No, most are in insurance plans that get large group discounts. Federal employees, for instance, get about a 30-percent drop from the retail price. Further, when they get prescriptions filled, they usually pay some type of copayment and their insurance covers the rest. Thus, an American with insurance coverage who decided to use his or her own money and have it filled at retail cost in America might be charged \$100 in the United States and \$60 in Canada, but if he or she bought it through his or her insurance plan, with a copayment, the charge would likely be around \$15 or \$20.

Our colleagues have rightly noted that many Americans cross the border in to Canada to get their prescriptions filled. These Americans are not Americans with private health insurance; they are senior citizens who receive health care through the ancient Medicare system. We ask our colleagues: do they think that it might be better to reform Medicare, make it cheaper, more effective, and make it provide prescription drug coverage, so that seniors can fill their prescriptions for \$15 in America instead of for \$60 in Canada? We concede that they would not have the fun of attacking drug companies as being run by greedy capitalists, but think of the other benefits--companies would continue research, and would continue finding new and better treatments and cures.

Passing the Jeffords amendment would lead to dangerous, ineffective drugs being imported into this country and would dampen future medical research. It is the wrong solution to a very real problem of prescription drugs costing too much for many Americans, particularly many elderly Americans. We urge our colleagues to defeat this amendment.